

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: LATEX GLOVES : MDL DOCKET NO. 1148  
PRODUCTS LIABILITY LITIGATION :  
: ALL CASES

CMO NO. 17C AND CMO NO. 28C  
PROCEDURE FOR DISCOVERY AFTER BRIGHT-LINE DISMISSALS

AND NOW, this 24th day of September, 1998, in furtherance of the bright-line test and its procedures (CMOs 17, 28 and 17A and 28A) and upon agreement of the parties, the following is ordered:

At any time during merits discovery, plaintiff may serve the interrogatories below on any defendant not the subject of a bright-line dismissal. Such defendant shall respond to the interrogatories without objection within thirty (30) days.

Interrogatories:

1. Do you contend that any of the defendants that were dismissed under the bright-line test and procedures sold or supplied latex gloves to any facility identified by plaintiff as one where he/she used latex gloves or was exposed to latex gloves in a manner that could reasonably have caused harm?

(List defendants dismissed under the bright-line test)

2. If your answer to the preceding interrogatory is other than an unqualified "No": Identify each and every fact upon which you base this contention, identify each and every person having knowledge of these facts, identify each and every document containing information that supports this contention and identify the dismissed defendant and the glove to which you contend plaintiff was exposed, by model number or other specific

description.

By issuing this order, the Court intends, and all parties agree, that in cases where plaintiff has served these interrogatories, and where a defendant has responded to interrogatory number one with an unqualified "No," that defendant shall be prohibited at trial, over plaintiff's objection, from attempting to attribute fault to a defendant that was dismissed under the bright-line test, from commenting on the absence or involvement of that defendant, or introducing any evidence with respect to that defendant.

It is also this Court's intent, and all parties agree, that, at trial, defendants shall be bound by their responses to these interrogatories unless good cause exists for allowing their amendment. No amendment of these interrogatory responses, as they pertain to a particular bright-line dismissed defendant, will be allowed less than ten (10) days before dismissal of that defendant becomes final [i.e., ninety (90) days after the close of merits discovery or one year after the date of the bright-line dismissal, whichever occurs later].

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Edmund V. Ludwig, J.